
Introduced by Senator Torres

February 5, 2014

An act to amend Section 11011.1 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 944, as introduced, Torres. Surplus state property.

Existing law requires the Department of General Services to dispose of surplus state real property in a specified manner, including, but not limited to, prescribing the priority of disposition of the property before the department offers it for sale to private entities or individuals.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11011.1 of the Government Code is
2 amended to read:
3 11011.1. (a) Notwithstanding any other ~~provision of~~ law,
4 except Article 8.5 (commencing with Section 54235) of Chapter
5 5 of Part 1 of Division 2 of Title 5, the disposal of surplus state
6 real property by the Department of General Services ~~shall be~~ *is*
7 subject to the requirements of this section. For purposes of this
8 section, "surplus state real property" means real property declared
9 surplus by the Legislature and directed to be disposed of by the
10 Department of General Services, including any real property
11 previously declared surplus by the Legislature but not yet disposed

1 of by the Department of General Services prior to the enactment
2 of this section.

3 (b) (1) The department may dispose of surplus state real
4 property by sale, lease, exchange, a sale combined with an
5 exchange, or other manner of disposition of property, as authorized
6 by the Legislature, upon any terms and conditions and subject to
7 any reservations and exceptions the department deems to be in the
8 best interests of the state.

9 (2) (A) The Legislature finds and declares that the provision
10 of decent housing for all Californians is a state goal of the highest
11 priority. The disposal of surplus state real property is a direct and
12 substantial public purpose of statewide concern and will serve an
13 important public purpose, including mitigating the environmental
14 effects of state activities. Therefore, it is the intent of the
15 Legislature that priority be given, as specified in this section, to
16 the disposal of surplus state real property to housing for persons
17 and families of low or moderate income, where land is suitable
18 for housing and there is a need for housing in the community.

19 (B) Surplus state real property that has been determined by the
20 department not to be needed by any state agency shall be offered
21 to any local agency, as defined in subdivision (a) of Section 54221,
22 and then to nonprofit affordable housing sponsors, ~~prior to~~ *before*
23 being offered for sale to private entities or individuals. As used in
24 this subdivision, “nonprofit affordable housing sponsor” means
25 any of the following:

26 (i) A nonprofit corporation incorporated pursuant to Division
27 2 (commencing with Section 5000) of Title 1 of the Corporations
28 Code.

29 (ii) A cooperative housing corporation which is a stock
30 cooperative, as defined by Section 11003.2 of the Business and
31 Professions Code.

32 (iii) A limited-dividend housing corporation.

33 (C) The department, subject to this section, shall maintain a list
34 of surplus state real property in a conspicuous place on its Internet
35 Web site. The department shall provide local agencies and, upon
36 request, members of the public, with electronic notification of
37 updates to the list of properties.

38 (D) To be considered as a potential priority buyer of the surplus
39 state real property, a local agency or nonprofit affordable housing
40 sponsor shall notify the department of its interest in the surplus

1 state real property within 90 days of the department posting on its
2 Internet Web site the notice of the availability of the surplus state
3 real property. The local agency or nonprofit affordable housing
4 sponsor shall demonstrate, to the satisfaction of the department,
5 that the surplus state real property, or portion of that surplus state
6 real property, is to be used by the local agency or nonprofit
7 affordable housing sponsor for open space, public parks, affordable
8 housing projects, or development of local government-owned
9 facilities. When more than one local agency expresses an interest
10 in the surplus state real property, priority shall be given to the local
11 agency that intends to use the surplus state real property for
12 affordable housing. If no agreement or transfer of title occurs, the
13 priority shall next be given to the local agency that intends to use
14 the surplus state real property for open space, public parks, or
15 development of local government-owned facilities. The sales
16 agreement shall be executed by the local agency or nonprofit
17 affordable housing sponsor within 60 days after the director
18 determines the local agency or nonprofit affordable housing
19 sponsor is to receive the surplus state real property. The sale of
20 the surplus state real property to a local agency or nonprofit
21 affordable housing sponsor pursuant to this section shall be
22 completed, and title transferred, within 60 days of the date the
23 department executes the sales agreement, or, if required by law,
24 no later than 60 days after the State Public Works Board has
25 authorized the sale. If the sale of a surplus state real property to a
26 local agency or nonprofit affordable housing sponsor is not
27 completed within the timeframe specified in this subparagraph,
28 then the department shall proceed with the process for disposal to
29 other private entities or individuals.

30 (c) (1) If more than one local agency desires the surplus state
31 real property for use as an open space, a public park, or the
32 development of a local government-owned facility, the department
33 shall transfer the surplus state real property to the local agency
34 offering the highest price above fair market value. If more than
35 one local agency desires the surplus state real property for use as
36 an affordable housing project, the department shall transfer the
37 surplus state real property to the local agency offering the greatest
38 number of affordable housing units. If more than one nonprofit
39 affordable housing sponsor desires the surplus state real property
40 for use as an affordable housing project, the department shall

1 transfer the surplus state real property to the nonprofit affordable
2 housing sponsor offering the greatest number of affordable housing
3 units.

4 (2) If no local agency or nonprofit affordable housing sponsor
5 is interested, or an agreement, as provided above, is not reached,
6 then the disposal of the surplus state real property to private entities
7 or individuals shall be pursuant to a public bidding process
8 designed to obtain the highest most certain return for the state from
9 a responsible bidder, and any transaction based on such a bidding
10 process shall be deemed to be the fair market value for the purposes
11 of the reporting requirements pursuant to subdivision (d).

12 (3) Notwithstanding any other ~~provision of~~ law, the department
13 may sell surplus state real property, or a portion of surplus state
14 real property, to a local agency, or to a nonprofit affordable housing
15 sponsor if no local agency is interested in the surplus state real
16 property, for affordable housing projects at a sales price less than
17 fair market value if the department determines that such a discount
18 will enable the provision of housing for persons and families of
19 low or moderate income. Nothing shall preclude a local agency
20 that purchases the surplus state real property for affordable housing
21 from reconveying the surplus state real property to a nonprofit
22 affordable housing sponsor for development of affordable housing.
23 Transfer of title to the surplus state real property or lease of the
24 surplus state real property for affordable housing shall be
25 conditioned upon continued use of the surplus state real property
26 as housing for persons and families of low and moderate income
27 for at least 40 years and the department shall record a regulatory
28 agreement that imposes affordability covenants, conditions, and
29 restrictions on the surplus state real property. The regulatory
30 agreement shall be a first priority lien on the surplus state real
31 property and last for a period of at least 40 years, and if another
32 state agency is lending funds for a project, a combined regulatory
33 agreement shall be utilized. Notwithstanding any other provision
34 of law, the regulatory agreement shall not be subordinated to any
35 other lien or encumbrance except for any federal loan program the
36 statutes or regulations of which require a first priority lien for that
37 federal loan.

38 (4) Notwithstanding any other ~~provision of~~ law, the Director of
39 General Services may transfer surplus state real property to a local
40 agency for less than fair market value if the local agency uses the

1 surplus state real property for parks or open-space purposes. The
2 deed or other instrument of transfer shall provide that the surplus
3 state real property would revert to the state if the use changed to
4 a use other than parks or open-space purposes during the period
5 of 25 years after the transfer date. For the purpose of this paragraph,
6 “open-space purposes” means the use of land for public recreation,
7 enjoyment of scenic beauty, or conservation or use of natural
8 resources.

9 (d) Thirty days prior to executing a transaction for a sale, lease,
10 exchange, a sale combined with an exchange, or other manner of
11 disposition of the surplus state real property for less than fair
12 market value or for affordable housing, or as authorized by the
13 Legislature, the Director of General Services shall report to the
14 chairpersons of the fiscal committees of the Legislature all of the
15 following:

16 (1) The financial terms of the transaction.

17 (2) A comparison of fair market value for the surplus state real
18 property and the terms listed in paragraph (1).

19 (3) The basis for agreeing to terms and conditions other than
20 fair market value.

21 (e) As to surplus state real property sold or exchanged pursuant
22 to this section, the director shall except and reserve to the state all
23 mineral deposits, as described in Section 6407 of the Public
24 Resources Code, together with the right to prospect for, mine, and
25 remove the deposits. If, however, the director determines that there
26 is little or no potential for mineral deposits, the reservation may
27 be without surface right of entry above a depth of 500 feet, or the
28 rights to prospect for, mine, and remove the deposits shall be
29 limited to those areas of the surplus state real property conveyed
30 that the director determines to be reasonably necessary for the
31 removal of the deposits.

32 (f) The failure to comply with this section, except for subdivision
33 (d), shall not invalidate the transfer or conveyance of surplus state
34 real property to a purchaser for value.

35 (g) For purposes of this section, fair market value is established
36 by an appraisal and economic evaluation conducted by the
37 department or approved by the department.